

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY - REGION III
1650 ARCH STREET
PHILADELPHIA, PENNSYLVANIA 19103-2029**

In The Matter of:

**Donald and Kathleen Bohl,
Robert and Alice Funk,
Brothers Lawn Care, Inc. and
Lance Maiocco,**

Respondents

:
: Proceeding to Assess Class I
: Administrative Penalty Under
: Section 309(g) of the Clean
: Water Act, 33 U.S.C. § 1319(g)
:
: Docket No. CWA-3-99-0021
:
:

ORDER ON MOTION TO AMEND ADMINISTRATIVE COMPLAINT

The Director of the Environmental Services Division for Region III of the United States Environmental Protection Agency (Complainant) filed the complaint in this action on July 15, 1999. Complainant asserted that the named respondents are liable for violations of the CleanWater Act, 33 U.S.C. § 1251 *et seq.*, arising out of the unpermitted wetland filling on properties owned by the Funk and Bohl respondents in Lake Township, Wayne County, Pennsylvania. Complainant proposed an administrative penalty of \$16,500 for these violations under Section 309(g)(2)(A) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(A).

The Bohl respondents filed a timely answer to the administrative complaint on August 12, 1999. No other respondents filed answers. At the same time that they filed their answer, the Bohl respondents filed a motion to join an additional respondent. Complainant filed an untimely response to this motion, stating that Complainant does not oppose the motion. No other responses to the motion to join an additional respondent were filed. In a separate ORDER issued today that motion was denied.

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On September 10, 1999, Complainant filed a motion to amend the administrative complaint on the grounds that information obtained after the filing of the complaint implicated three other “persons”¹ in the alleged violations that are the subject of this action.² Complainant seeks leave to amend the complaint pursuant to 40 C.F.R. § 22.14(c) to bring these “persons” into the case. The Bohl respondents filed a response indicating they are not opposed to the motion to amend by letter dated September 22, 1999. No other response to Complainant’s motion to amend the complaint has been filed.

Complainant’s motion to amend the Administrative Complaint is **GRANTED**.

/S/

Date: October 12, 1999

BENJAMIN KALKSTEIN
Presiding Officer

¹ The term “person” means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a state, or any interstate body. Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5).

² Complainant’s motion included three Exhibits and made reference to a fourth, a copy of the proposed amended complaint. Motion, at p. 3. The proposed amended complaint was not filed with the motion. This does not affect the outcome.